

**REMARKS**

Reconsideration and withdrawal of the rejections of the application respectfully requested in view of the remarks and enclosures herewith, which place the application in condition for allowance.

**I. STATUS OF CLAIMS AND FORMAL MATTERS**

Claims 1-10 are pending in this application.

Claims 1-7 and 10 have been cancelled without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents. Claims 8 and 9 have been amended. The subject matter of non-elected base claims are incorporated into claim 8. Support for vaccination of a patient is found in paragraphs 117 and 118 of the application as published. No new matter has been added by this amendment.

It is submitted that the claims as originally presented were in full compliance with the requirements of 35 U.S.C. § 112. The amendments of the claims, as previously presented, were not made for purposes of patentability within the meaning of 35 U.S.C. §§§§ 101, 102, 103 or 112. Rather, these amendments and additions were made simply for clarification and to round out the scope of protection to which Applicants are entitled.

**II. THE PRIORITY CLAIM IS CORRECT**

The Office Action alleges that the Applicants have not complied with one or more conditions for receiving the benefit of an earlier filing date. In particular, the Office Action contends that there was no co-pendency between Application No. 09/242,449 ("the '449 application"), which was allegedly abandoned on 10/02/2003, and the instant Application ("the '922 application"), which was filed on 11/03/2003. Applicants respectfully disagree.

Attached hereto as Exhibit A is a true copy of the Petition Under 37 C.F.R. § 1.136(a) filed in connection with the '449 application requesting a three-month extension of time for filing a response to the Office Action mailed May 1, 2003, thereby extending the time for response to November 1, 2003 (which was a Saturday).

Attached hereto as Exhibit B is a true copy of the Transaction History for the '449 application downloaded from the PAIR site indicating that the Request for Extension of Time (Exhibit A) was granted on November 4, 2003.

Contrary to the Office Action, the '449 application was abandoned on Tuesday, November 4, 2003, not October 2, 2003. Accordingly, co-pendency was established between the

'449 application and the '922 application. Therefore, Applicants are entitled to and respectfully request the benefit of the earlier filing date of the '449 application.

**III. THE OATH/DECLARATION IS NOT DEFECTIVE**

The Office Action alleges that the oath or declaration is defective for not adequately identifying the specification to which the oath or declaration is directed. Applicants respectfully disagree.

According to 37 CFR 1.63(d)(1), "[a] newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application". As indicated above, the '922 application is a continuation of the '449 application.

Attached hereto as Exhibit C is a true copy of the oath or declaration filed in connection with the '449 application which was filed on November 3, 2003 in connection with the '922 application.

Attached hereto as Exhibit D is a true copy of the Transaction History for the '922 application downloaded from the PAIR site indicating that the oath or declaration (Exhibit C) was filed on November 3, 2003.

Accordingly, the oath or declaration is not defective because the oath or declaration in the parent application (the '449 application) was filed in compliance with 37 CFR 1.63(d)(1) for the '922 application.

**IV. THE CLAIM OBJECTIONS ARE OVERCOME**

Claims 8 and 9 are objected to because they depend on non-elected base claims. In response, claims 8 and 9 have been clarified to add the recitations of the non-elected base claims.

Reconsideration and withdrawal of the claim objections is respectfully requested.

**V. THE CLAIM REJECTIONS UNDER 35 U.S.C. § 112 ARE OVERCOME**

Claims 8 and 9 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite and for omitting essential steps.

In response, claims 8 and 9 have been clarified, thereby obviating the rejection. The nucleotides encoding specific protein fragments are specified in claim 8, therefore indicating a selection step. Furthermore, administration and conclusion steps have also been indicated.

Reconsideration and withdrawal of the claim rejections is respectfully requested.

**VI. THE CLAIM REJECTIONS UNDER 35 U.S.C. § 102 ARE OVERCOME**

Claims 8 and 9 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by WO 98/07850 to Bergmann et al. (hereinafter "Bergmann"). Applicants respectfully disagree and traverse the rejection.

Bergmann is not prior art. As indicated above, the present application is a continuation of the '449 application, which is the national phase application of Bergmann.

Reconsideration and withdrawal of the claim rejections is respectfully requested.

**REQUEST FOR INTERVIEW**

If any issue remains as an impediment to allowance, a further interview with the Examiner and SPE are respectfully requested; and, the Office Action is additionally requested to contact the undersigned to arrange a mutually convenient time and manner for such an interview.

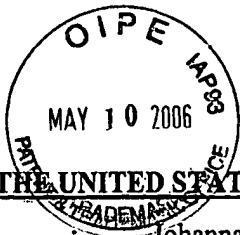
**CONCLUSION**

In view of the remarks, amendments and Exhibits submitted herewith, the application is believed to be in condition for allowance. Favorable reconsideration of the application and prompt issuance of a Notice of Allowance are earnestly solicited. The undersigned looks forward to hearing favorably from the Examiner at an early date, and, the Examiner is invited to telephonically contact the undersigned to advance prosecution.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP  
Attorneys for Applicants

By: Deborah L. Lu  
Marilyn M. Brogan  
Reg. No. 31,223  
Deborah L. Lu  
Reg. No. 50,940  
Tel. (212) 588-0800  
Fax (212) 588-0500



11-05-02

PATENT  
830006-2000

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Johanna Bergmann  
Ser. No. : 09/242,449  
Filing Date : February 16, 1999  
For : AGENTS FOR PRE-SYMPTOMATIC DETECTION AND  
THERAPEUTIC TARGETING OF ALZHEIMER'S DISEASE  
AND DOWN SYNDROME IN HUMANS  
Examiner : Christopher J. Nichols  
Group Art Unit : 1643

745 Fifth Avenue  
New York, New York 10151

EXPRESS MAIL

Mailing Label Number: EV 3450122894US

Date of Deposit: November 3, 2003

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: Mail Stop Patent Application Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Barnet Shindman  
(Typed or printed name of person mailing paper or fee)

Barnet Shindman  
(Signature of person mailing paper or fee)

RECEIVED

NOV 18 2003

TECH CENTER 1600/2900

PETITION UNDER 37 CFR 1.136(a)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants, by their attorneys, hereby petition for a three-month extension of time for filing a response to the Office Action mailed on May 1, 2003, thereby extending the time for response to November 1, 2003. Submitted herewith is a check in the amount of \$475.00 to cover the cost of this Petition. Concurrently with the filing of this Petition, Applicants are filing a

Continuation Application.

11/07/2003 WABDELRI 00000030 09242449

01 FC:2253

475.00 00

00156422

Please charge any additional fees to our Deposit Account 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP

Attorneys for Applicants

By: William F. Lawrence  
William F. Lawrence  
Reg. No. 28,029  
(212) 588-0800


by: Deborah L. Lu  
Reg NO 50,940

**Transaction History**

<b>Date</b>	<b>Transaction Description</b>
12-08-2003	Mail Abandonment for Failure to Respond to Office Action
12-05-2003	Abandonment for Failure to Respond to Office Action
11-04-2003	Request for Extension of Time - Granted
05-01-2003	Mail Non-Final Rejection
04-29-2003	Non-Final Rejection
04-28-2003	Case Docketed to Examiner in GAU
09-24-2001	Date Forwarded to Examiner
08-28-2001	Response to Election / Restriction Filed
08-28-2001	Request for Extension of Time - Granted
09-12-2001	Case Docketed to Examiner in GAU
08-30-2001	Power to Make Copies and/or Inspect
03-28-2001	Mail Restriction Requirement
03-26-2001	Requirement for Restriction / Election
02-27-2001	Case Docketed to Examiner in GAU
10-26-2000	CRF Is Good Technically / Entered into Database
10-16-2000	Date Forwarded to Examiner
09-28-2000	Response to a Letter to Comply with the Sequence Rules
09-28-2000	Request for Extension of Time - Granted
06-19-2000	Correspondence Address Change
02-16-1999	Initial Exam Team nn
05-10-2000	Mail Letter Requiring CRF (Unreadable, Non-Compliant, Not Submitted)
05-08-2000	CRF Diskette Unreadable / Did Not Comply / Required but Not Submitted
04-07-2000	Change in Power of Attorney (May Include Associate POA)
04-07-2000	Correspondence Address Change
04-07-2000	Change in Power of Attorney (May Include Associate POA)
02-23-2000	Information Disclosure Statement (IDS) Filed
07-07-1999	Case Docketed to Examiner in GAU
05-20-1999	Application Dispatched from OIPE
05-20-1999	IFW Scan & PACR Auto Security Review
05-06-1999	Released to OIPE
05-06-1999	Notice of DO/EO Acceptance Mailed
05-06-1999	371 Application Preexamination Docketing
04-05-1999	371 Application Preexamination Docketing
03-05-1999	IB Paper Match
03-04-1999	371 Application Preexamination Docketing
02-16-1999	Receipt of 371 Request

[Close Window](#)



Please type a plus sign (+) inside this box → 

PTO/SB/81 (11-96)

Approved for use through 6/30/99. OMB 0651-0035

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**POWER OF ATTORNEY OR  
AUTHORIZATION OF AGENT,  
NOT ACCOMPANYING  
APPLICATION**

Application Number	09/242,449
Filing Date	02/16/99
First Named Inventor	Johanna Bergmann.
Group Art Unit	1643
Examiner Name	Unassigned
Attorney Docket Number	424022000200

I hereby appoint:

☐ Practitioners-at Customer Number

OR

☒ Practitioner(s) named below:

Name	Registration Number
Susan K. Lehnhardt	33,943

Place Customer  
Number Bar Code  
Label here

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number.

OR

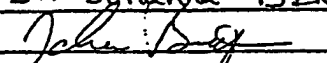
<input checked="" type="checkbox"/> Firm or Individual Name	Morrison & Foerster, LLP				
Address	1290 Avenue of the Americas				
Address					
City	New York	State	New York	ZIP	10104
Country	United States of America				
Telephone	212 468 8186	Fax	212 468 7900		

I am the:

☒ Applicant.

☐ Assignee of record of the entire interest  
*Certificate under 37 CFR 3.73(b) is enclosed*

**SIGNATURE of Applicant or Assignee of Record**

Name	Dr. Johanna BERGMANN
Signature	
Date	15/07/1999

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Bergmann et al.  
U.S. Serial No.: 09/242,449  
Filing Date: February 16, 1999  
For : AGENTS FOR PRE-SYMPTOMATIC DETECTION AND  
THERAPEUTIC TARGETING OF ALZHEIMER'S DISEASE AND  
~~DOWN SYNDROME IN HUMANS~~  
Examiner: B. Tedeschi

745 Fifth Avenue  
New York, NY 10151

FACSIMILE

I hereby certify that this paper is being facsimile transmitted  
to the Patent and Trademark Office on the date shown below.

Amy Leahy

\_\_\_\_\_  
Type or print name of person signing certification

\_\_\_\_\_  
Signature

August 30, 2002

\_\_\_\_\_  
Date of Signature

ASSOCIATE POWER OF ATTORNEY AND CHANGE OF ADDRESS

Commissioner for Patents  
Washington, D.C. 20231

Sir:

The undersigned, Susan K. Lehnhardt, Registration No. 33,943, the attorney of record in this application, appoints William F. Lawrence, Registration No. 28,029 and Amy Leahy, Registration No. 47,739, associate attorney with full power to prosecute this application, make alterations and amendments, and to transact all business in the U.S. Patent and Trademark Office, including to receive the Letters Patent, appoint others as associate attorney, and terminate any powers of attorney previously granted.

Kindly address all correspondence and communications to:

William F. Lawrence  
Amy Leahy  
Frommer Lawrence & Haug LLP  
745 Fifth Avenue  
New York, New York 10151  
Tel. 212-588-0800  
Fax 212-588-0500

... --Respectfully submitted,

Attorney for Applicant(s)

By Susan Lehnhardt  
Susan K. Lehnhardt  
Registration No. 33,943  
Tel. (617) 535-4000

# DECLARATION — Utility or Design Patent Application

I hereby declare that I am the inventor of the invention claimed in the application, and that I am the owner of the right to make, use, and sell the invention. I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT international filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
PCT/EP97/04599	08/22/96	

☐ Additional U.S. or PCT international application numbers are listed on a supplemental priority date sheet PTO/SB02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Customer Number		Place Customer Number Bar Code Label Here	
<input type="checkbox"/>			
OR			
Registered practitioner(s) name/registration number listed below			
Name	Registration Number	Name	Registration Number

☐ Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB07C attached hereto.

Direct all correspondence to: ☐ Customer Number or Bar Code Label ☒ Correspondence address below

Name	DR. JOHANNA BERGMANN		
Address	HOERKESTR. 22		
Address			
City	HAMBURG	State	22587
Country	GERMANY	Telephone	41 40 3666 2948
		Fax	41 40 3666 2149

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that would false statements and the law so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor: ☐ A petition has been filed for this unsigned inventor

Given Name (first and middle if any)	Family Name or Surname
JOHANNA	BERGMANN

Inventor's Signature: *[Signature]* Date: 02/10/99

Residence: City: HAMBURG Country: GERMANY Citizenship: GERMAN

Post Office Address: HOERKESTR. 22

Post Office Address:

City: HAMBURG State: ZIP: 22587 Country: GERMANY

☐ Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/SB02A attached hereto

669120\*64424260

Please type a plus sign (+) inside this box → **+**

PTO/SB/02A (3-87)  
Approved for use through 9/30/98 OMB 0651-0032  
Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE  
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

<b>DECLARATION</b>	<b>ADDITIONAL INVENTOR(S)</b> Supplemental Sheet Page <u>1</u> of <u>1</u>
--------------------	--

Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
ENRIQUE <del>PREDDIE</del>		PREDDIE	
Inventor's Signature	[Signature]		Date
Residence: City	MONTREAL	State	CANADA
Post Office Address			
Post Office Address			
City	MONTREAL	State	CANADA
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature			Date
Residence: City		State	Country
Post Office Address			
Post Office Address			
City		State	Country
Name of Additional Joint Inventor, if any:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle (if any))		Family Name or Surname	
Inventor's Signature			Date
Residence: City		State	Country
Post Office Address			
Post Office Address			
City		State	Country



**Burden Hour Statement:** This form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

669120-64427260



Search results as of: 05-02-2006::14:10:48 E.T.

This application is officially maintained in electronic form. To View: Click the desired Document Description. To Download and Print: Check the desired document(s) and click StartDownload.

<b>Mail Room Date</b> 	<b>Document Description</b> 	<b>Page Count</b>
02-07-2006	Non-Final Rejection	10
02-07-2006	List of references cited by examiner	1
02-07-2006	Index of Claims	1
02-07-2006	Search information Including classification, databases and other search related notes	1
02-02-2006	Examiner's search strategy and results	22
01-03-2006	Response to Election / Restriction Filed	2
01-03-2006	Applicant Arguments/Remarks Made in an Amendment	7
11-04-2005	Requirement for Restriction/Election	15
11-04-2005	Index of Claims	1
03-21-2005	Preliminary Amendment	1
03-21-2005	Applicant Arguments/Remarks Made in an Amendment	2
03-21-2005	Drawings	2
03-10-2005	Miscellaneous Action with SSP	2
12-03-2004	CRF entered - partial listing printed by STIC	7
10-14-2004	Fee Worksheet (PTO-875)	1
10-14-2004	Applicant Response to Pre-Exam Formalities Notice	2
10-14-2004	Preliminary Amendment	1
10-14-2004	Specification	1
10-14-2004	Applicant Arguments/Remarks Made in an Amendment	1
10-14-2004	Sequence Listing	8
10-14-2004	Drawings	2
09-01-2004	Pre-Exam Formalities Notice	2
11-03-2003	Transmittal letter	5
11-03-2003	Authorization for Extension of Time all replies	5
11-03-2003	Specification	29
11-03-2003	Claims	3
11-03-2003	Abstract	4
11-03-2003	Drawings	16
11-03-2003	Oath or Declaration filed	6
11-03-2003	Sequence Listing	13
11-03-2003	Fee Worksheet (PTO-875)	1
11-03-2003	Fee Worksheet (PTO-875)	1

[Close Window](#)

**This Page is Inserted by IFW Indexing and Scanning  
Operations and is not part of the Official Record**

**BEST AVAILABLE IMAGES**

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images include but are not limited to the items checked:

- ☐ **BLACK BORDERS**
- ☐ **IMAGE CUT OFF AT TOP, BOTTOM OR SIDES**
- ☐ **FADED TEXT OR DRAWING**
- ☐ **BLURRED OR ILLEGIBLE TEXT OR DRAWING**
- ☐ **SKEWED/SLANTED IMAGES**
- ☐ **COLOR OR BLACK AND WHITE PHOTOGRAPHS**
- ☐ **GRAY SCALE DOCUMENTS**
- ☐ **LINES OR MARKS ON ORIGINAL DOCUMENT**
- ☐ **REFERENCE(S) OR EXHIBIT(S) SUBMITTED ARE POOR QUALITY**
- ☐ **OTHER:** \_\_\_\_\_

**IMAGES ARE BEST AVAILABLE COPY.**

**As rescanning these documents will not correct the image problems checked, please do not report these problems to the IFW Image Problem Mailbox.**